



Massachusetts Department of Revenue

Sales and Use Tax

Farm Machinery Used in Agricultural Production

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Issue 1:

Are sales of farm machinery used in agricultural production, such as tractors, backhoes, balers, harrowers, harvesters, manure spreaders, plows, seeders, and similar machines subject to the sales tax?

Directive 1:

Sales of farm machinery, including sales of tractors, plows, backhoes, balers, harrowers, harvesters, manure spreaders, seeders, and similar machinery used directly and exclusively in agricultural production, as defined below, are exempt from sales tax.

Issue 2:

What is the meaning of the phrase "directly and exclusively in agricultural production" for purposes of the sales tax exemption under G.L. c. 64H, § 6(s)?

Directive 2:

The phrase "directly and exclusively in agricultural production" means the preparation for and the activities of cultivation, growing, harvesting, and storage of any agricultural, floricultural, or horticultural commodity; dairying; the raising of livestock including horses, swine, cattle, or other domesticated animals used for food purposes; the raising of fur-bearing animals for the purpose of selling the pelts or furs in the regular course of business; the growing and harvesting of forest products on forest land; forestry or lumbering operations performed by a farmer; and beekeeping. Agricultural production also encompasses certain incidental agricultural operations, including the storage of crops and preparation for market, to the extent that such storage and preparation activities occur on the agricultural premises.

Discussion of Law:

Massachusetts imposes a five percent sales tax on all retail sales, unless otherwise exempted. See G.L. c. 64H, § 2. General Laws chapter 64H, section 6(s), in pertinent part, exempts from the sales tax, sales of machinery or replacement parts used directly and exclusively in agricultural production. A sale of farm machinery qualifies for exemption under G.L. c. 64H only if it meets each element of the machinery exemption in G.L. c. 64H, § 6(s). To qualify for the exemption under G.L. c. 64H, § 6(s), the property must be 1) "machinery," 2) that is used "directly and exclusively" and 3) in "agricultural production." Each element is analyzed below.

1. "Machinery"

The Supreme Judicial Court has defined "machinery" as "any combination of mechanical means designed to work together so as to effect a given end." *Warner Amex Cable Communications, Inc. v. Assessors of Everett*, 396 Mass. 239, 242 (1985), quoting *Assessors of Brockton v. Brockton Olympia Realty Co.*, 322 Mass. 355 (1948). We conclude that under that Supreme Judicial Court definition of "machinery," farm tractors, backhoes, balers, harrowers, harvesters, manure spreaders, plows, seeders and similar machines are "machinery" for purposes of G.L. c. 64H, § 6(s).

2. "Used directly and exclusively in agricultural production"

No case law interprets the meaning of machinery or replacement parts "used directly and exclusively in agricultural production" under G.L. c. 64H, § 6(r)-(s). However, there is case law discussing similar language used in the manufacturing exemption of G.L. c. 64H, § 6(s). In *Rowe Contracting Co. v. State Tax Commission*, 361 Mass. 158 (1972), the Supreme Judicial Court construed the meaning of "machinery used directly and exclusively in an industrial plant in the actual manufacture, conversion, or processing of tangible personal property to be sold." The Court held that the use of machinery before or after the actual process of creating the goods, including loading them onto customers' trucks, was not direct and exclusive use in actual *manufacturing*. See *id.* at 165 (*emphasis added*).

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The meaning of the term "production" may be slightly broader than the meaning of "manufacture." The Supreme Judicial Court has said that "[m]anufacture ordinarily and commonly denotes the process of transforming raw or unfinished materials by hand or machinery, and through human skill or knowledge, into something possessing a new nature and name and adapted to a new use." *Commissioner of Corporations and Taxation v. Assessors of Boston*, 321 Mass. 90, 94 (1947). "Production," on the other hand, is defined, as "the act or process of producing . . . the creation of utility; [especially] *the making of goods available for use*." WEBSTER'S NINTH NEW COLLEGIATE DICTIONARY 938 (1984) (*emphasis added*). Unlike the restrictions on machinery used in manufacturing, the phrase "used directly and exclusively in agricultural production" should include the preparation of land for cultivation, harvesting, and storage, and all the intermediate steps of growing crops and raising livestock.

3. "Agricultural production"

A number of statutes have defined agriculture or farming, but those statutes are not controlling on the meaning of "agricultural production" for purposes of the exemptions from tax under G.L. c. 64H, § 6(r) and (s).¹ The term "agricultural production" is not defined generally in G.L. c. 64H, § 6(r) or (s). Moreover, there are no cases construing "agricultural production." Massachusetts cases have construed "agriculture," "agricultural use," and "agricultural pursuit," however, and the approach taken has been a common sense understanding of what agriculture is. See, e.g., *Hume v. Building Inspector of Westford*, 355 Mass. 179 (the maintenance of a kennel is not agriculture); *Moulton v. Building Inspector of Milton*, 312 Mass. 195 (1942) (the storage in a silo of fodder for the feeding of cattle is agricultural use).

Under the rules of statutory construction, words should be construed according to the common and approved usage of the language. G.L. c. 4, § 6, para. 3. The common and ordinary meaning of agriculture is "the science or art of cultivating the soil, producing crops, and raising livestock and in varying degrees the preparation of these products for man's use and their disposal." WEBSTER'S NINTH NEW COLLEGIATE DICTIONARY 65 (1984).

The Commissioner has the general authority to interpret the taxing statutes. Under such authority we find that the agricultural production is limited to the following activities: the preparation for and the activities of cultivation, growing, harvesting, and storage of any agricultural, floricultural, or horticultural commodity; dairying; the raising of livestock including horses, swine, cattle, or other domesticated animals used for food purposes; the raising of fur-bearing animals for the purpose of selling the pelts or furs in the regular course of business; the growing and harvesting of forest products on forest land; forestry or lumbering operations performed by a farmer; and beekeeping. Agricultural production also encompasses certain incidental agricultural operations, including the storage of crops and preparation for market, to the extent that such storage and preparation activities occur on the agricultural premises. For example, the use of a farm tractor for

1. A host of statutes define terms similar to "agricultural production." Among them are: G.L. c. 40A, § 3, the zoning enabling statute; G.L. c. 40L, § 1, defining "agricultural land," as part of the Agricultural Incentive Areas Act; G.L. c. 61A, which deals with the assessment and taxation of agricultural and horticultural land; G.L. c. 111, the chapter on Public Health; G.L. c. 128, § 1A, which regulates farming; G.L. c. 150A, § 5A, defining "agriculture," in the Labor Relations chapter. This definition was cited by the Department once, see Letter Ruling 85-64 (beekeeping, listed under G.L. c. 128, § 1A, is agricultural production), but we expressly decline to adopt the definitions of G.L. c. 128, § 1A, for purposes of G.L. c. 64H, § 6(r)-(s).

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purposes of hauling produce to a farm stand located on the farmer's agricultural premises falls within the meaning of agricultural production. However, the use of a farm tractor to haul produce to a farm stand or market that is *not* located on the farmer's agricultural premises is not agricultural production.

February 7, 1992



Mitchell Adams
Commissioner of Revenue

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